

SEP 05 2024

US DISTRICT COURT
WESTERN DISTRICT OF NC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

MICHAEL LAMAR GAINES

VS

IREDELL COUNTY SHERIFF'S DEPARTMENT

COMPLAINT NO. 5:24-cv-198-FDW

I. JURISDICTION & VENUE

1. THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C SECTION 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES.

2. THE CLAIM OCCURRED IN IREDELL COUNTY, NORTH CAROLINA.

II. PLAINTIFF

MICHAEL LAMAR GAINES

P.O. BOX 287

STATESVILLE NC 28677

III. IREDELL COUNTY SHERIFF'S DEPARTMENT ARE THE DEFENDANTS.

IV. FACTS

ON FEBRUARY 6, 2023, THE PLAINTIFF MICHAEL LAMAR GAINES WAS BLUE LIGHTED BY A IREDELL COUNTY SHERIFF'S DEPUTY FOR PURPORTEDLY DRIVING AN AUDI SUV AT NIGHT WITHOUT HEADLIGHTS. (SEE ATTACHMENT (4) #15.)

PLAINTIFF ADAMANTLY ATTESTS THAT HIS VEHICLE AND ALL OF ITS FACILITIES, NAMELY THE HEAD AND TAILLIGHTS WERE IN PROPER WORKING ORDER DUE TO A PERSONAL VEHICLE INSPECTION DONE BY THE PLAINTIFF PRIOR TO HIM ENTERING HWY 77 AND POLICE ATTEMPTING TO MAKE A TRAFFIC STOP.

THE PLAINTIFF HEREBY REQUESTS A FRANK'S HEARING (PURSUANT TO FRANK'S VS DEL) TO CHALLENGE THE PROBABLE CAUSE OF THE "TERRY" STOP.

A WORKING TAILLIGHT, AS TO BE VIEWED BY DASH CAM, WOULD

ESTABLISH A 4TH AMENDMENT CLAIM DUE TO ILLEGAL SEARCH AND SEIZURE.

V. THE FOURTH AMENDMENT TO THE U.S. CONSTITUTION WHILE PURSUANT TO FRANKS V DEL IS THE LEGAL BASIS TO THIS CLAIM.

ALTHOUGH THIS IS A POST CONVICTION CHALLENGE, THE PLAINTIFF IS RELENDING HIS GUILTY PLEA DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL.

AT THE TIME OF THIS FILING THE PLAINTIFF'S SENTENCE DUE TO PLEA ~~E~~ IS LESS THAN A WEEK OLD.

RELIEF

PLAINTIFF REQUESTS A FRANKS HEARING TO CHALLENGE PROBABLE CAUSE. AND UPON A FINDING OF NO P.C. A DISMISSAL OF ALL CRIMINAL CHARGES. PLAINTIFF WAS SENTENCED IN FEDERAL COURT. AND ANY OTHER APPLICABLE RELIEF.

DECLARATION OF TRUTH
UNDER THE PENALTY OF
PERJURY, I, THE UNDERSIGNED
ATTESTS THE FOREGOING
MOTION IS TRUE.

SIGN Michael Gaines
DATE 9/2/2024